

Respondent argues that one physician has released claimant to return to work without restrictions and a second has given restrictions but did not take claimant completely off work. Respondent also points out claimant no longer works for respondent, having been terminated. Claimant argues the opinion of the first physician is not in evidence, that the record contains nothing to show why the claimant was terminated, and the appeal raises no jurisdictional question.

The Board concludes, as argued, the appeal does not raise a jurisdictional issue. K.S.A. 44-534a lists jurisdictional issues. Whether claimant is or is not temporarily totally disabled is not one of the issues listed. Where other jurisdictional prerequisites are met, including notice, timely written claim, and accident arising out of and in the course of employment, the ALJ has jurisdiction to determine whether the claimant is or is not temporarily disabled. The ALJ's decision on this question is not subject to review at this stage of the proceedings.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of the Order entered by Administrative Law Judge Brad E. Avery on May 10, 2000, should be, and the same is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2000.

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BOARD MEMBER

c: Bruce A. Roby, Topeka, KS  
Jeffery R. Brewer, Wichita, KS  
Brad E. Avery, Administrative Law Judge  
Philip S. Harness, Director